ing in the instant case. Moreover, this New York case, besides being in conflict with the views expressed in *Smith* v. *Molleson,* 148 N. Y. 241, seems to stand alone as any authority for the conclusion reached therein.

From this general survey of similar cases, it must be conceded that the application of the second proposition as made by the Supreme Court of Indiana, that a surety may be bound by an incomplete instrument which discloses a failure of the principal to sign, although the obligation is joint only, although an express condition requires the principal's signature, although the surety has not waived such condition, and although there is no external duty binding the principal, is without any direct support in precedent and, on the contrary, strongly opposed by practically all established authority.

Both propositions established in the instant case being insufficient to support the conclusion reached therein, the only possible ground on which the decision can be justified is to assume that the Indiana Supreme Court is inclined to place compensated sureties in that class of persons who are subjected to extraordinary liability. Whether such an assumption is correct remains to be seen in future cases. At present, however, it is, to say the least, an innovation in suretyship law. A. V. D.

JURISDICTION OVER NON-RESIDENTS IN GARNISHMENT PROCEEDINGS.—The Supreme Court of Wisconsin was confronted, in the recent case of *Thomas* v. *Citizens Nat'l Bank of Pokomoke City* (Wis. 1914) 147 N. W. 1005 with a perplexing question as to the power of a court over a non-resident garnishee owning a debt due in another state. A non-resident intervening claimant in garnishment proceedings was summoned as garnishee upon his appearance as claimant, and it was disclosed that the debt due from him to the principal defendant was an open banking account in another state; the court held that it had no jurisdiction to charge a non-resident, found temporarily within the state, as garnishee of another non-resident upon a debt due in another state, since the situs of the debt was not within the jurisdiction of the court.

The court does not mention the leading case of *Harris* v. *Balk,* 198 U. S. 215, 25 Sup. Ct. 625, 49 L. Ed. 1023, 3 Ann Cas. 1084, which established the doctrine that the temporary presence of a garnishee within the state gives a court of that state jurisdiction to render judgment against him in a garnishment proceeding upon personal service of process within the state, if, during such temporary presence within the state, the principal debtor could have sued him there to recover the debt, and if the laws of the state permit the garnishment of a debtor of the principal debtor. But the decision in the principal case may very well be reconciled with that of *Harris* v. *Balk* on the ground that although the court has the power to give a valid judgment against such a garnishee it is not bound to do so. On the facts also, the principal case is distinguishable from the leading case. It might well have been held that the garnishee was immune from service of process while in the state only for the purpose of becoming a party to judicial proceedings therein. *Cooper* v. *Wyman,* 122 N. C. 784; *Mitchell* v. *Huron,* 53 Mich. 541. An exhaustive brief on this subject is found in the notes to *Mullen* v. *Sanborn,* 79 Md. 364, 47 Am. St. Rep. 421, 29 Atl. 522, 25 L. R. A. 721-738.

Since the decision in *Harris* v. *Balk,* it has been the almost universal tendency of the courts to assume jurisdiction if personal service be had on the garnishee, especially if the garnishee is a resident or a corporation subject to process within the state. The following are some of the recent decisions in point, the majority of which cite *Harris* v. *Balk, Harvey* v. *Thompson,* 128 Ga. 147, 57 S. E. 104, 9 L. R. A. (N. S.) 765; *Central of Georgia Ry. Co.* v. *Collum,* 130 Ga. 434, 60 S. E. 1060; *A. B. Baxter & Co.* v. *Andrews,* 131 Ga. 120, 62 S. E. 42; *Planters' Chemical & Oil Co.* v. *A. Waller & Co.,* 160 Ala. 217, 49 So. 89; *Cavanaugh Bros.* v. *C. R. I. & P. Ry.,* 75 N. H. 243; *Wiener* v. *Amer. Ins. Co.,* 224 Pa. 292, 73 Atl. 443; *Bayer* v. *Lovelace,* 204 Mass. 327, 90 N. E. 538; *Bristol* v. *Brent,* 38 Utah 58, 110 Pac. 356; *Western Stoneware Co.* v. *Pike County Mineral Springs Co.* (Mo. App.), 155 S. W. 1082. In *McShane* v. *Knox,* 103 Minn. 268, it was held that if personal service be had on both the defendant and garnishee the situs of the debt is unimportant and the court has jurisdiction. In a previous case in the same state, *Chubbuck* v. *Cleveland,* 37 Minn. 466, 35 N. W. 362, 5 Am. St. Rep. 864, the court refused to assume jurisdiction when the garnishee had been fraudulently induced by the plaintiff to come into the state. In so far as the presence of the garnishee was due to the act of the plaintiff the situation in the principal case is similar. The latest statement of the Minnesota courts on the subject of the jurisdiction of the court over the defendant in garnishment proceedings is found in *Starkey* v. *C. C. C.& St. L. Ry. Co.,* 114 Minn. 27, 130 N. W. 540. The court does not decide whether or not a garnishee within the state temporarily only is subject to the jurisdiction of the court, when there has not been personal service on the principal defendant. It cites, however, *Louisville & Nashville Ry.* v. *Deer,* 200 U. S. 176, 26 Sup. Ct. 207, 50 L. Ed. 426, which reaffirms *Harris* v. *Balk,* and from the tendency of the decisions of the Minnesota court it is believed that when the question is fairly presented the court will go to the full limit of the doctrine laid down in *Harris* v. *Balk.* A very late case, *Person et al.* v. *Williams-Echols Dry Goods Co.,* (Ark. 1914) 169 S. W. 223, goes to the extent of holding that assumption of jurisdiction is warranted though the suit be brought upon a judgment obtained in a foreign state of which the plaintiff and the defendant are residents and though the debt be exempt from garnishment in the domicile of the defendant. In all cases of the class in question it is important to notice that in order to protect the principal defendant the garnishee should notify the latter, and such failure may in some instances be such negligence as would prevent a garnishee from pleading the judgment in bar of a subsequent suit by his creditor. If the principal defendant has appeared or has been personally served, no notice need be given him of the garnishment proceedings, unless such notice is required by statute. ROOD, GARNISHMENTS, § 208, 20 CYC. 1054. *Morgan* v. *Neville,* 74 Pa. 52, says that the garnishee must give notice. In that case it does not appear that the statute required such notice. *Union Pacific Ry. Co.* v. *Smersh,* 22 Neb. 751, 36 N. W. 139, 3 Am. St. Rep. 390, states that even though the statute does not require it, the courts have power to compel notice by the garnishee to the defendant before he files his answer in order that the debtor may protect his rights. H. H.